



# DOE Security Enforcement Program

May 2006



# 10 CFR Part 824

## **“Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations”**

- Process required by NDAA for FY-2000 which added new § 234B to AEA
- While NDAA specified classified or “sensitive” information, 824 only covers classified
- Written to parallel Price Anderson Enforcement



# Items subject to Civil Penalty

## Violation of protection requirement in Rules or Orders (Directives)

- 10 CFR 1016, *Safeguarding of Restricted Data*
- 10 CFR 1045, *Nuclear Classification and Declassification*
- Failure to satisfy a Compliance Order issued by the Secretary dealing with protection of classified information
- Orders (Directives) that contain an advisory



# Advisory Language for Directives

“A violation of the provisions of this directive relating to the safeguarding or security of Restricted Data or other classified information may result in a civil penalty pursuant to subsection a. of section 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b). The procedures for the assessment of civil penalties are set forth in Title 10, Code of Federal Regulations, Part 824, “Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations,” (10 CFR 824).”



# Directives With Advisory

Approved 8/26/05 and posted 9/6/05 as part of the “streamlining” initiative

- DOE M 470.4-1, *Safeguards and Security Program Planning and Management*\*
- DOE M 470.4-2, *Physical Protection*\*
- DOE M 470.4-3, *Protective Force*\*
- DOE M 470.4-4, *Information Security*
- DOE M 470.4-5, *Personnel Security*
- DOE M 470.4-6, *Nuclear Material Control and Accountability*

\* *Page change approved 3/7/06*



# Compliance Order

- Can be issued by the Secretary of Energy when there is no violation of a rule, regulation or directive if, “a person by act or omission causes, or creates a risk of, the loss, compromise or unauthorized disclosure of classified information.” (§ 824.4)
- Requires specific corrective action



# Examples of Noncompliances

- Incident---as reported pursuant to DOE M 470.4-1, *Safeguards and Security Program Planning and Management*
  - Provided the resultant inquiry/investigation discloses a violation of a classified information requirement
- Findings from an inspection/appraisal
  - SSA (SP-40), IG or security surveys---typically would need to be unresolved or repeat finding



## Factors That Will Be Considered

- Prompt identification and reporting
  - can result in 50% reduction of penalty
- Willfulness
- Repeated occurrence or one time event
- Serious breakdown of management controls





# Implementation Responsibilities

- Director, SSA, has been designated as the responsible official.
  - SP-23, Office of Special Operations
- For most actions, the Administrator, NNSA, has role if an NNSA contractor is involved



# Process

1. Noncompliance occurs, inquiry/investigation conducted
2. Incident Review Meeting (SSA, GC, program office, DOE field element)
3. Enforcement Conference
4. Director (Administrator, NNSA has role) issues:
  - a. Letter closing out the noncompliance, or
  - b. Enforcement Letter, or
  - c. Preliminary Notice of Violation (PNOV)



## Process, cont.

5. If PNOV issued, contractor has 30 days to respond:
  - a. No response, becomes Final Order
  - b. Response submitted--Director (or Administrator, NNSA) decides whether to close or issue Final Notice of Violation (FNOV).
6. Contractor must respond if FNOV issued:
  - a. Agree to pay fine
  - b. Request a hearing



# Process cont.

7. If Hearing is to be held:
  - a. Director appoints Hearing Counsel and selects Administrative Law Judge as Hearing Officer
  - b. Hearing Counsel represents DOE
  - c. Hearing Officer convenes hearing and issues Initial Decision
8. Hearing Officer's Initial Decision becomes Final Order in 30 days
9. Payment to be made in 30 days of Final Order



# Actions Taken

- “Streamlined Directives” with advisory language published 8/26 (6 month implementation)
- HQ Program and Staff Offices briefed
- Introductory brochure
- SSA Home Page links
- Incident Tracking Analysis Capability (ITAC) reprogrammed to accommodate enforcement information
- Procedures Guide finalized (NA, ESE & GC)



# Current Actions

- Finalize training modules for inclusion in relevant National Training Center courses
  - Conduct of Inquiries
  - Basic Survey
  - CMPC
- One FTE position to be filled



# More Information?

WEB ADDRESS for more information or to  
submit questions/comments:

[www.ssa.doe.gov](http://www.ssa.doe.gov)

Wayne Berkebile, SP-23

(301) 903-1163

or

Geralyn C. Praskievicz, SP-20

(202) 586-4451